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Paper No. 10

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12-9-02

In re Application of
Engst
Application No. 10/024,567
Filed: December 21, 2001
Attorney Docket No. A8224

DECISION GRANTING
PETITION

This is a decision on the October 7, 2002 petition requesting that the above-identified application be accorded a filing date of December 21, 2001.

The United States Patent and Trademark Office (hereinafter "USPTO") received this application on December 21, 2001. However, on January 24, 2002, the Office of Initial Patent Examination (hereinafter "OIE") mailed a "Notice Of Incomplete Nonprovisional Application" (hereinafter "notice") noting that the application had not been granted a filing date due to Applicant's failure to include the required drawings. The notice further stated that the filing date would be the date of receipt of the omitted drawings unless a petition was filed that successfully showed that the missing item(s) had been included with the application.

Petitioner responded on March 19, 2002 by filing the missing drawings, a declaration, and a return receipt postcard with a USPTO date stamp of December 21, 2001, indicating receipt of the allegedly missing drawings on that date.

For reasons not entirely clear, the office responded by assigning the date of receipt of the petition (March 19, 2002) to the application as its filing date. The office mailed a notice to this effect on April 3, 2002.¹

Petitioner responded with the October 7, 2002 filing of this petition.

In view of the above, it is concluded that the USPTO received a complete application on December 21, 2001 and later misplaced the drawings. It is furthermore concluded that the April 3, 2002 notice assigning a filing date of March 19, 2002 was mailed in error. Accordingly, *this petition is granted*.

The \$130.00 petition fee has been charged to counsel's deposit account. However, as no petition fee is required in this case, the fee will be refunded to Petitioner's deposit account (no. 19-4880).

The application is being returned to OIE for further processing with a filing date of December 21, 2001.

¹ That notice indicated that although a filing date had been assigned, the application was considered informal because the drawings did not conform to the standards that would be required for them to be treated as formal.

Any questions regarding this decision should be directed to the undersigned at (703) 306-5593.



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